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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,940	03/11/2004	Martin Letz	4965-000178	6898
27572	7590	07/05/2006	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			PATEL, ASHOK	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 2879

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17, 23-36 and 44, drawn to a luminescent phosphate phosphor glass, classified in class 501, subclass 11.

II. Claims 18-22 and 37-43, drawn to a cold light source device, classified in class 313, subclass 512.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the cold light source device of claim 37, 42 or 43 does not require luminescent glass as recited fully in claim 1, 23, 30 or 34. The subcombination has separate utility such as photomultiplier, automobile glass, enclosure (box) etc.

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3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. If applicant elects Group 1, then election of species applies as follows.

This application contains claims directed to the following patentably distinct species:

- Species I: A cold light source device having a luminescent phosphate glass including five different chemical compounds, covered by claim 18/1;
- Species II: A cold light source device having a luminescent phosphate glass including three elements as fully recited in claim 37; and
- Species III: A cold light source device having a luminescent phosphate glass including two elements as fully recited in claims 42 and 43.

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The species are independent or distinct because all subject matters of any one species is not common with all subject matters of remaining two species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is held generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. A telephone call was made to Mr. Christopher Brock on June 21, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

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7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

8. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

9. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is (571) 272-2456. The examiner can normally be reached on M-F, 7AM - 5:30PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ashok Patel
Primary Examiner
Art Unit 2879